

## HB0404S01 compared with HB0404

~~{deleted text}~~ shows text that was in HB0404 but was deleted in HB0404S01.

Inserted text shows text that was not in HB0404 but was inserted into HB0404S01.

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Representative V. Lowry Snow proposes the following substitute bill:

### JUVENILE JUSTICE REFORM AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill creates a restricted account and ~~{extends the presumptive length of jurisdiction over a minor for nonrepayment of restitution}~~ modifies the custody, commitment, and jurisdiction relating to a minor in juvenile court.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Juvenile Justice Reinvestment Restricted Account;
- ▶ describes the purposes and sources of the restricted account;
- ▶ grants rulemaking authority to the Division of Juvenile Justice Services;
- ▶ extends the presumptive length of jurisdiction by the court over a minor for nonrepayment of restitution;

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- ▶ modifies custody and commitment of a minor to the Division of Juvenile Justice Services; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**62A-7-101**, as last amended by Laws of Utah 2017, Chapter 330

**78A-6-117**, as last amended by Laws of Utah 2018, Chapters 117 and 285

**78A-6-117.5**, as enacted by Laws of Utah 2017, Chapter 330

**78A-6-119**, as last amended by Laws of Utah 2017, Chapter 330

**78A-6-604**, as last amended by Laws of Utah 2017, Chapter 330

**78A-6-1101**, as last amended by Laws of Utah 2017, Chapter 330

#### ENACTS:

**62A-7-112**, Utah Code Annotated 1953

**62A-7-113**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **62A-7-101** is amended to read:

#### **62A-7-101. Definitions.**

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 62A-7-112.

~~[(1)]~~ (2) "Authority" means the Youth Parole Authority, established in accordance with Section 62A-7-501.

~~[(2)]~~ (3) "Board" means the Board of Juvenile Justice Services established in accordance with Section 62A-1-105.

~~[(3)]~~ (4) "Community-based program" means a nonsecure residential or nonresidential program designated to supervise and rehabilitate youth offenders in accordance with

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Subsection 78A-6-117(2) that prioritizes the least restrictive nonresidential setting, consistent with public safety, and designated or operated by or under contract with the division.

~~[(4)]~~ (5) "Control" means the authority to detain, restrict, and supervise a youth in a manner consistent with public safety and the well being of the youth and division employees.

~~[(5)]~~ (6) "Court" means the juvenile court.

~~[(6)]~~ (7) "Delinquent act" is an act which would constitute a felony or a misdemeanor if committed by an adult.

~~[(7)]~~ (8) "Detention" means secure detention or home detention.

~~[(8)]~~ (9) "Detention center" means a facility established in accordance with Title 62A, Chapter 7, Part 2, Detention Facilities.

~~[(9)]~~ (10) "Director" means the director of the Division of Juvenile Justice Services.

~~[(10)]~~ (11) "Discharge" means a written order of the Youth Parole Authority that removes a youth offender from its jurisdiction.

~~[(11)]~~ (12) "Division" means the Division of Juvenile Justice Services.

~~[(12)]~~ (13) "Home detention" means predispositional placement of a child in the child's home or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct by a child who is alleged to have committed a delinquent act or postdispositional placement pursuant to Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

~~[(13)]~~ (14) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

~~[(14)]~~ (15) "Parole" means a conditional release of a youth offender from residency in a secure facility to live outside that facility under the supervision of the Division of Juvenile Justice Services or other person designated by the division.

~~[(15)]~~ (16) "Performance-based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool pursuant to Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based

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dosage of treatment and successfully completes the program within three months.

~~[(16)]~~ (17) "Receiving center" means a nonsecure, nonresidential program established by the division or under contract with the division that is responsible for juveniles taken into custody by a law enforcement officer for status offenses, infractions, or delinquent acts.

~~[(17)]~~ (18) "Rescission" means a written order of the Youth Parole Authority that rescinds a parole date.

~~[(18)]~~ (19) "Revocation of parole" means a written order of the Youth Parole Authority that terminates parole supervision of a youth offender and directs return of the youth offender to the custody of a secure facility after a hearing and a determination that there has been a violation of law or of a condition of parole that warrants a return to a secure facility in accordance with Section 62A-7-504.

~~[(19)]~~ (20) "Runaway" means a youth who willfully leaves the residence of a parent or guardian without the permission of the parent or guardian.

~~[(20)]~~ (21) "Secure detention" means predisposition placement in a facility operated by or under contract with the division, for conduct by a child who is alleged to have committed a delinquent act.

~~[(21)]~~ (22) "Secure facility" means any facility operated by or under contract with the division, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

~~[(22)]~~ (23) "Shelter" means the temporary care of children in physically unrestricted facilities pending court disposition or transfer to another jurisdiction.

~~[(23)]~~ (24) (a) "Temporary custody" means control and responsibility of nonadjudicated youth until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate agency.

(b) "Temporary custody" does not include a placement in a secure facility, including secure detention, or a residential community-based program operated or contracted by the division, except pursuant to Subsection 78A-6-117(2).

~~[(24)]~~ (25) "Termination" means a written order of the Youth Parole Authority that terminates a youth offender from parole.

~~[(25)]~~ (26) "Ungovernable" means a youth in conflict with a parent or guardian, and the conflict:

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(a) results in behavior that is beyond the control or ability of the youth, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the youth, the family, or others; or

(c) results in the situations in both Subsections ~~[(25)]~~ (26)(a) and (b).

~~[(26)]~~ (27) "Work program" means a nonresidential public or private service work project established and administered by the division for youth offenders for the purpose of rehabilitation, education, and restitution to victims.

~~[(27)]~~ (28) "Youth offender" means a person 12 years of age or older, and who has not reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and jurisdiction of the division, for confinement in a secure facility or supervision in the community, following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult in accordance with Section 78A-6-117.

~~[(28)]~~ (29) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) These services include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with their families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) The services may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time out placement; and

(iv) family counseling.

Section 2. Section **62A-7-112** is enacted to read:

### **62A-7-112. Juvenile Justice Reinvestment Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Juvenile Justice Reinvestment Restricted Account."

(2) The account shall be funded by savings ~~realized~~ calculated from General Fund appropriations by the division as described in Subsection 62A-7-113(~~(1)~~).

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~~(3) The Legislature shall appropriate funds in the account to the department.~~

~~(4) The~~ (2).

(3) No later than 60 days after the end of the fiscal year, the Division of Finance shall transfer the savings from General Fund appropriations calculated by the division as described in Subsection 62A-7-113(2) from the General Fund to the account.

(4) Upon appropriation by the Legislature, the department may expend funds from the account:

(a) for the statewide expansion of nonresidential community-based programs,

including:

(i) receiving centers;

(ii) mobile crisis outreach teams as defined in Section 78A-6-105;

(iii) youth courts; and

(iv) victim-offender mediation;

(b) for nonresidential evidence-based programs and practices in cognitive, behavioral, and family therapy;

(c) to implement:

(i) nonresidential diagnostic assessment; and

(ii) nonresidential early intervention programs, including family strengthening programs, family wraparound services, and truancy interventions; or

(d) for infrastructure in nonresidential evidence-based juvenile justice programs, including staffing and transportation.

Section 3. Section **62A-7-113** is enacted to read:

### **62A-7-113. Rulemaking authority and division responsibilities.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330 resulting from the reduction in out-of-home placements for youth offenders with the division.

(2) At the end of each fiscal year, the division shall use the formula established under Subsection (1) to calculate savings from General Fund appropriations and report the amount of the savings to the Division of Finance.

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~~(f2)3~~ No later than December 31 of each year, the division shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the division's activities under this section and Section 62A-7-112, including:

(a) for the report submitted in 2019, the formula used to calculate the savings from General Fund appropriations under Subsection (1);

(b) the amount of savings from General Fund appropriations calculated by the division for the previous fiscal year;

~~(f2)c~~ an accounting of the money expended or committed to be expended under Subsection 62A-7-112(4); and

~~(f2)d~~ the balance of the account.

Section 4. Section **78A-6-117** is amended to read:

**78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.**

(1) (a) ~~[When]~~ Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall ~~[so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within]~~ adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the minor.

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

~~(f2)~~ (c) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, ~~[it]~~ the court shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, ~~[if]~~ whether the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

~~(f2)~~ (d) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment. Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be

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shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection ~~[(1)(c)]~~ (1)(d); and

(C) if the court orders treatment, be based on a validated risk and needs assessment conducted under Subsection ~~[(1)(c)]~~ (1)(d);

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated ~~[persons]~~ individuals in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated ~~[persons]~~ individuals may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable ~~[person]~~ individual, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) ~~[(1)]~~ The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:



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~~[(A)]~~ (i) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

~~[(B)]~~ (ii) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

~~[(iii)]~~ (d) (i) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

- (A) contempt of court except to the extent permitted under Section 78A-6-1101;
- (B) a violation of probation;
- (C) failure to pay a fine, fee, restitution, or other financial obligation;
- (D) unfinished compensatory or community service hours;
- (E) an infraction; or
- (F) a status offense.

~~[(iii)]~~ (ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in Subsections (2) ~~[(c)]~~ ~~[(iii)]~~ (d) (ii) (B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2) ~~[(c)]~~ ~~[(iii)]~~ (d) (ii) (E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child

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and Family Services.

(G) Upon receiving a petition under Subsection (2) ~~[(c)(iii)]~~ [(d)(ii)](F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

~~[(d)(i)]~~ [(e)] The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that the minor poses a risk of harm to others and is adjudicated under this section for:

~~[(A)]~~ [(i)] a felony offense;

~~[(B)]~~ [(ii)] a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

~~[(C)]~~ [(iii)] a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

~~[(ii)]~~ [(f)(i)] A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

~~[(iii)]~~ [(ii)] The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

~~[(e)]~~ [(g)] The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

~~[(f)]~~ [(h)] (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2) ~~[(f)]~~ [(h)] applies only to a minor adjudicated for:

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- (A) an act which if committed by an adult would be a criminal offense; or
- (B) contempt of court under Section 78A-6-1101.
- (iii) The court may not commit a minor to a place of detention for:
  - (A) contempt of court except to the extent allowed under Section 78A-6-1101;
  - (B) a violation of probation;
  - (C) failure to pay a fine, fee, restitution, or other financial obligation;
  - (D) unfinished compensatory or community service hours;
  - (E) an infraction; or
  - (F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (2)~~(f)~~(h)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)~~(f)~~(h)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c)~~(f)~~(i). Only the seven days under this Subsection (2)~~(f)~~(h)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)~~(f)~~(v), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c)~~(f)~~(i).

~~(g)~~(i) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

~~(h)~~(i) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) ~~[A victim has the meaning defined under Subsection 77-38a-102(14)].~~ A victim, as defined in Subsection 77-38a-102(14), of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a

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restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay; ~~and~~

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed~~[-]; and~~

(D) the length of the presumptive term of supervision shall be taken into account in determining the minor's ability to satisfy the restitution order within the presumptive term.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) The prosecutor shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within three months after disposition.

(ix) A financial disposition ordered shall prioritize the payment of restitution.

~~(f)~~ (k) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

~~(f)~~ (l) (i) The court may through ~~its~~ the court's probation department encourage the development of nonresidential employment or work programs to enable ~~minors~~ a minor to fulfill ~~their~~ the minor's obligations under Subsection (2) ~~(f)~~ (i) and for other purposes considered desirable by the court.

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(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order ~~is reasonable and prioritizes restitution~~:

(A) is reasonable;

(B) prioritizes restitution; and

(C) takes into account the minor's ability to satisfy the order within the presumptive term of supervision.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for children under age 16 at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)~~(j)~~(1)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

~~(k)~~1(m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other eligible disposition under Subsection (2)~~(k)~~1(m)(i) except for a disposition under Subsection (2)(c), (d), (e), or (f). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section

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78A-6-606.

~~[(b)]~~ [(n)] (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2) ~~[(f)]~~ [(1)] (iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other ~~[person]~~ individual at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2) ~~[(h)]~~ [(i)].

~~[(m)]~~ [(o)] (i) Subject to Subsection (2) ~~[(m)]~~ [(o)] (iii), the court may order that a minor:

- (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or
- (B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2) ~~[(m)]~~ [(o)] (i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2) ~~[(m)]~~ [(o)] (i), the court shall consider:

- (A) the desires of the minor;
- (B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and
- (C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

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(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2) ~~[(m)]~~ [(o)].

~~[(m)]~~ [(p)] (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

~~[(t)]~~ [(q)] (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

- (A) parent-time by the parents or one parent;
- (B) restrictions on the minor's associates;
- (C) restrictions on the minor's occupation and other activities; and
- (D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

~~[(p)]~~ [(r)] The court may order the child to be committed to the physical custody of a

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local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

~~[(t)]~~ [(s)] (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2) ~~[(t)]~~ [(s)] (i).

~~[(t)]~~ [(t)] The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

~~[(s)]~~ [(u)] The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c), [(d)], [(e)], and ~~[(d)]~~ [(f)].

~~[(t)]~~ [(v)] The court may combine the dispositions listed in this section if it is permissible and they are compatible.

~~[(u)]~~ [(w)] Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another ~~[person]~~ individual, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

~~[(v)]~~ [(x)] Except as provided in Subsection (2) ~~[(x)]~~ [(z)] (i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

~~[(w)]~~ [(y)] In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

~~[(x)]~~ [(z)] (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court



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may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2) ~~[(x)]~~ [(z)] (i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that ~~[employees]~~ an employee designated to collect the saliva DNA specimens ~~[receive]~~ receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is

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ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court pursuant to this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(c), (d), (e), or ~~[(d)] (f)~~, the court may suspend a custody order pursuant to Subsection (2)(c), (d), (e), or ~~[(d)] (f)~~ in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i): (A) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii): ~~[(or)]~~

(B) if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate~~[-]; or~~

(C) if, after a notice and a hearing, the court finds a new or previous evaluation recommends a high level of treatment, and the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal

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custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall do so for a defined period of time pursuant to this section.

(a) For the purposes of placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive maximum length of intake probation may not exceed three months; and

(ii) the presumptive maximum length of formal probation may not exceed four to six months.

(b) For the purposes of vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive maximum length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive maximum length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

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(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed; ~~[or]~~

(v) there is an outstanding fine~~[-];~~ or

(vi) there is a failure to pay restitution in full.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) ~~[(i), (ii), (iii), or (iv)]~~ exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) ~~[(i), (ii), (iii), or (iv)]~~ exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended ~~[to complete service hours]~~ under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended ~~[to complete service hours]~~ under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

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- (e) Section 76-5-405, aggravated sexual assault;
- (f) a felony violation of Section 76-6-103, aggravated arson;
- (g) Section 76-6-203, aggravated burglary;
- (h) Section 76-6-302, aggravated robbery;
- (i) Section 76-10-508.1, felony discharge of a firearm; or
- (j) an offense other than those listed in Subsections (7)(a) through (i) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

Section 5. Section 78A-6-117.5 is amended to read:

**78A-6-117.5. Custody in Division of Child and Family Services or in the Division of Juvenile Justice Services.**

(1) Notwithstanding [Subsection] Subsections 78A-6-117(2)(c) and (d), the court may not vest custody in the Division of Child and Family Services except pursuant to Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(2) If the court finds that a child is at risk of being removed from the home or that the family is in crisis, the court may order the Division of Child and Family Services to conduct an assessment to determine if provision of in-home family preservation services is appropriate. If considered appropriate by the Division of Child and Family Services, services shall be provided pursuant to Section 62A-4a-202.

(3) Notwithstanding Section 78A-6-117, a court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

(4) Notwithstanding Section 78A-6-117, a court may not commit a minor to the temporary custody of the Division of Juvenile Justice Services for residential observation and evaluation or residential observation and assessment.

Section 6. Section 78A-6-119 is amended to read:

**78A-6-119. Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.**

(1) The court may modify or set aside any order or decree made by the court, except on and after July 1, 2018, the order or decree must be in accordance with Sections 78A-6-117 and 78A-6-123, however a modification of an order placing a minor on probation may not include on and after July 1, 2018, an order:

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(a) under Subsection 78A-6-117(2)(c), (d), (e), (f) or [(f)] (h); or

(b) extending supervision, except pursuant to Subsection 78A-6-117(7).

(2) Notice of the hearing shall be required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 78A-6-1103 and pursuant to Section 78A-6-117.

(3) (a) Notice of an order terminating probation or protective supervision of a child shall be given to the child's:

(i) parents;

(ii) guardian;

(iii) custodian; and

(iv) where appropriate, to the child.

(b) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years of age shall be given to the minor.

Section 7. Section 78A-6-604 is amended to read:

**78A-6-604. Minor held in detention -- Credit for good behavior.**

(1) A minor held in detention under Subsection 78A-6-117(2)[(f)](h) is eligible to receive credit for good behavior against the period of detention. The rate of credit is one day for every three days served. The Division of Juvenile Justice Services shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules describing good behavior for which credit may be earned.

(2) Any disposition including detention under Subsection 78A-6-117(2)[(f)](h) shall be concurrent with any other order of detention.

Section 8. Section 78A-6-1101 is amended to read:

**78A-6-1101. Violation of order of court -- Contempt -- Penalty -- Enforcement of fine, fee, or restitution.**

(1) A person who willfully violates or refuses to obey any order of the court may be proceeded against for contempt of court.

(2) A person 18 years of age or older found in contempt of court may be punished in accordance with Section 78B-6-310.

(3) (a) A person younger than 18 years of age found in contempt of court may be punished by disposition permitted under Section 78A-6-117, except the court may only order a

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disposition that changes the custody of the minor, including community placement or commitment to a secure facility, if the disposition is commitment to a secure detention pursuant to Subsection 78A-6-117(2)[(f)](h) for no longer than 72 hours, excluding weekends and legal holidays.

(b) A court may not suspend all or part of the punishment upon compliance with conditions imposed by the court.

(4) In accordance with Section 78A-6-117, the court may enforce orders of fines, fees, or restitution through garnishments, wage withholdings, supplementary proceedings, or executions. An order described in this Subsection (4) may not be enforced through an order of detention, community placement, or commitment to a secure facility.